

market for existing licensees, potential licensees, and the development of new technologies. Innocent creditors, and especially secured creditors, must be afforded reasonable assurances about collateral protection as soon as possible to prevent increasingly rapid erosion of the already shrinking capital market for FCC licensees.

3. THE PUBLIC INTEREST REQUIRES CLARIFICATION THAT SOME INTEREST IN THE VALUE OF THE LICENSEE AS A GOING CONCERN IS PERMITTED

Heller urges the Commission to clarify that, at least for purposes of dealing with licensees in default, a lender that has bargained for and obtained seniority in relation to other creditors can assert a limited security interest in (1) the license as the means to obtain a security interest in the going-concern value of the licensee, or (2) in the entire value of the licensee as a going concern, including the Intangible Operating Value of the license. This ensures that senior debt can be secured by, and satisfied from, the entire market value of the licensee. In the alternative, Heller asks that the FCC at least clarify that federal communications law and policy would not preclude a court from finding that such security interests may exist for contract or bankruptcy purposes. In no case would such a limited securi-

ty interest compromise the FCC's transfer approval process or otherwise offend the Communications Act.

A limited security interest in the license or the going-concern value of the licensee including the Intangible Operating Value of the license would enable the parties to establish contractually their rights upon default of the underlying debt or bankruptcy. A lender such as Heller would thus be able to establish senior status as to the proceeds from a public auction or private sale of the licensee and its assets covered by the security interest in exchange for providing the working capital financing depended upon by licensees. Also, any uncertainty faced by creditors over the potential distribution of the proceeds from the disposition of the licensee's assets would be reduced. The assignment or transfer of control of the license pursuant to any sale or transfer of control of a licensee would, of course, remain absolutely subject to full Commission review and approval.

A limited security interest in FCC licenses or the going-concern value of the licensee including the Intangible Operating Value of licenses subject absolutely to the Commission's transfer approval process would, in fact, provide lenders with a strong risk-mitigating fac-

tor in analyzing transactions with FCC licensees by dispelling the confusion and uncertainty raised by Oklahoma City.¹² The net present value of the projected cash flows produced by a licensee is often, if not usually, the licensee's most valuable "asset."¹³ Yet, the Oklahoma City court and others have equated this financial projection with the FCC license itself rather than recognizing that while the license permits the future cash flows to be produced, they are not one and the same thing. (Indeed, if an FCC license and future earnings were equivalent, that is, if the license assured future earnings, the present problem would not arise in the first place because licensees would rarely default or seek bankruptcy protection.) If lenders cannot rely in some way on the overall value of the licensee, whether through a security interest in the license or in the going-concern value of the licensee including the Intangible Operating Value of the license, the pool of funds available to licensees will decrease significantly in

¹² 112 B.R. 425.

¹³ See, e.g., "Hot Seat for Obuchowski," 11 Comm. Daily 1 (Mar. 13, 1991) (Winner of 1988 Cape Cod cellular lottery sold license within 73 days to Southwestern Bell Mobile for \$30.5 million -- after making no capital investment).

size, to the ultimate detriment of the public interest. By clarifying the confusion raised by Oklahoma City,¹⁴ the FCC would be providing much needed comfort to lenders in an already tightening financial market and preventing a possible collapse of the mechanism by which borrowers in the communications industry obtain operating funds.

3.1. The Securitization of the License as a General Intangible Is Provided For by State Law

The Uniform Commercial Code ("U.C.C.") permits security interests in "general intangibles."¹⁵ Such security interests are created and perfected at the state level as any other security interest would be, through security agreements and the filing of financing statements with the appropriate state and where applicable, local filing offices.¹⁶

¹⁴ 112 B.R. 425.

¹⁵ U.C.C. § 9-102. "General intangibles" means, essentially, any personal property not otherwise defined within other Article 9 classes of assets. U.C.C. § 9-106.

¹⁶ The security interest in intangibles attaches upon execution of the security agreement, the giving of value by the lender, and the acquisition of rights in the collateral by the debtor. U.C.C. § 9-203. The security interest in intangibles is perfected when a financing statement is filed with the requisite filing office(s) in the state. U.C.C. § 9-302.

U.C.C. § 9-104(a) excludes certain transactions from Article 9 security interests "to the extent that [a federal] statute governs the rights of parties to and third parties affected by transactions in particular types of property[.]" The Communications Act governs transfers of licenses and requires FCC approval of all transferees,¹⁷ and any attempt to transfer licenses without FCC approval would be null and void. However, the Communications Act does not address the permissibility of security interests in FCC licenses.¹⁸

The existence of conflicting law controlling the transfer of licenses does not preclude court determination of a security interest in a license.¹⁹ For example, although liquor licenses are not considered "proper-

¹⁷ 47 U.S.C. § 310(d).

¹⁸ See discussion below in Section 4.1.

¹⁹ Moreover, the fact that the Communications Act prohibits FCC licenses from being considered as granting property rights in the spectrum does not preclude the licenses themselves to be considered limited proprietary interests of the licensee. For example, airlines have a limited possessory interest in airport slots even though airport slots are not considered property under the Federal Aviation Act. This possessory interest would be sufficient to permit a security interest mechanism, subject to the Federal Aviation Administration's ongoing regulatory power. See In re Gull Air, 890 F.2d 1255 (1st Cir. 1989); In re McClain Airlines, Inc., 80 B.R. 175 (Bankr. D. Az. 1987).

ty," they are valuable in the marketplace, and security interests establishing priority status for a lender may generally be created in relation to them, either directly or as to their proceeds upon sale, under the U.C.C.'s "general intangibles" clause.²⁰

3.2. A Reduction in Available Funds Can Lead to Service Interruptions and Terminations

A lender with the ability to rely on the going-concern value of the licensee has more incentive not to disrupt the licensee's operations. Without this incentive, secured lenders will tend to limit their loan commitments to the value of licensees' hard assets, and will likely foreclose on such interests in default situations because the hard assets would constitute the lender's

²⁰ See, e.g., In re Terwilliger's Catering Plus, 911 F.2d 1168 (6th Cir. 1990); In re O'Neill's Shannon Village, 750 F.2d 679 (8th Cir. 1984); In re Bennett Enterprises, Inc., 58 B.R. 918 (Bankr. D. Mass. 1986). These cases permitted security interests in liquor licenses although liquor licenses were not considered property under applicable law. In In re Kluchman, 59 B.R. 13 (Bankr. W.D. Pa. 1985), the court found that "if a secured party has a valid perfected security interest in general intangibles or the proceeds of a liquor license, there is no reason to invalidate the lien upon the proceeds of the sale in this Court." Id. at 16. The Court reached this result despite the fact that any transfer of the license was subject to the review of the Liquor Control Board.

only security. Lenders would be oblivious to any reduction in going-concern value as a result of its foreclosure action because lenders would derive no benefits from keeping the licensee in operation. Instead, lenders could be assured of complete satisfaction of the debt only by selling off the licensee-borrower's hard assets. This would force the licensee to cease providing service to the public, a result clearly not in the public interest or which the Commission would wish to encourage.

3.3. A Reduction in Available Funds Can Reduce the Quality of Service to the Public

The lack of security for lenders not only leads to interruption or cessation of licensee services to the public, but also prevents licensees from making service and facilities improvements both directly (lack of funds for investment) and indirectly. Licensees unable to continue operation of their licensed facilities properly may want to sell their operations, but the lack of available financing reduces the number of potential buyers such that the potential seller may be forced to reduce service quality and operate less than optimally. Clearly this result is not in the public interest.

3.4. A Reduction in Available Funds Can Interfere with Technology Deployment

A reduction in available funds can have a negative impact on technology deployment. Section 7 of the Communications Act specifically encourages the Commission to facilitate the introduction of new technology.²¹ The FCC has actively sought to encourage technological advances in terms of spectrum users, and a number of new technologies (digital radio, personal communications services, etc.) are expected to mature in the near future.²²

Technological innovations are of undeniable benefit to the public, allowing people to communicate better, faster, and more efficiently. Technology deploy-

²¹ 47 U.S.C. § 157 (1983).

²² See, e.g., Amendment of the Commission's Rules to Establish New Personal Communications Services, 5 FCC Rcd. 3995 (1990) (The FCC instituted a Notice of Inquiry in an effort to assist the development of personal communications services because of the benefits this new technology will offer to the public); Establishment of Procedures to Provide Preference to Applicants Proposing an Allocation for New Services, Docket 90-217, Order (decided April 9, 1991) (The Commission has approved the "Pioneer's Preference" proposal which reduces, for innovators, the delays and risks associated with the spectrum allocation and licensing process in order to foster the development of new services that make use of technological advances).

ment is dependent on the continued and increased availability of financing for licensees, regardless of whether a licensee is at the cutting edge or wants only to keep pace with others.

4. RECOGNITION AND CLARIFICATION OF THE INTERESTS DISCUSSED HEREIN IS CONSISTENT WITH EXISTING STATUTES, CASE LAW, AND FCC POLICY

There are essentially three aspects of licenses, "valuable" on the open market, among which the Commission should distinguish in considering the permissibility of security interests. First is the spectrum which is assigned to the licensee. A security interest in the spectrum is clearly prohibited by the Communications Act and all judicial and Commission interpretations thereof.²³ This policy is essential so that the Commission can perform its primary function of managing the spectrum. Thus, licensees cannot and do not hold a property right to radio spectrum, and therefore cannot grant a security interest in the spectrum.

Second is the right to use the spectrum within the terms of the license, subject to the government's right to condition, modify, revoke, refuse to renew, or

²³ See Petition at 5-7.

otherwise abrogate the rights granted by the license. A security interest in such a right that remains absolutely subject to the FCC's powers should be permissible; existing communications statutes, case law and policy would support the recognition of such an interest.²⁴

Third is the value a licensee's business generates beyond the value of its hard assets. This value comes from the current value of a business entity's expected earnings stream, which arises from many factors, including any FCC licenses the entity may hold. Lenders have always relied on the value of their borrowers as going concerns, including the Intangible Operating Value of any FCC licenses the borrower may hold, in making loans. Such reliance has long been thought appropriate and permissible and has been implicitly recognized and acknowledged by the Commission. However, as discussed above, Oklahoma City²⁵ has generated significant uncer-

²⁴ As discussed in Section 3.1, security interests are recognized in certain licenses such as liquor licenses and airline slots regardless of whether the license conveys any ownership or property rights. See also Petition at 21-22, 24-26. Moreover, note that the term "license" can denote property rights as well as rights of use. For example, patents, trademarks, real property easements etc. all involve types of "licenses" that are considered to be property in the traditional sense and are clearly subject to security interests.

²⁵ 112 B.R. 425.

tainty and general confusion regarding FCC licenses that immediately must be eliminated to prevent results clearly not in the public interest.

4.1. The Communications Act Does Not Prohibit Security Interests in FCC Licenses or in the Intangible Operating Value of Such Licenses

Heller agrees with the Petition that nothing in Sections 301, 304, or 309(h) of the Communications Act prohibits security interests in FCC licenses.²⁶ These sections provide that the federal government retain control over radio channels and provide for "the use of such channels but not the ownership thereof"²⁷ through the issuance of licenses for radio transmissions. The licenses create no rights beyond the terms, conditions, and periods of the license, and licensees must waive any claim "to the use of any particular frequency or of the electromagnetic spectrum"²⁸ beyond the terms of the license.²⁹

²⁶ Petition at 12-18.

²⁷ 47 U.S.C. § 301.

²⁸ 47 U.S.C. § 304. See also 47 U.S.C. § 309(h).

²⁹ It was recognized under the Radio Act of 1927, the progenitor of the Communications Act of 1934, that a licensee could have a property right, subject to the grace of government, in the rights of use as granted by the license. See Technical Radio Laboratory v.
(Footnote continued)

The legislative history of Sections 301, 304, and 309(h) clearly establishes that licenses do not create property rights in the assigned frequencies.³⁰ However, there is no indication that (1) acquisition of a security interest in the license, subject to its terms and the superior rights of the federal government, or (2) a priority in claims against the going-concern value of the business conducted pursuant to a license, is restricted.

In fact, the FCC contemplated allowing certain security interests, including reversionary interests, in FCC licenses in Minority Ownership³¹ to encourage the financing of stations transferred to owners who are mi-

(Footnote 29 continued from previous page)

Fed. Radio Comm'n, 36 F.2d 111, 114 (D.C. Cir. 1929) ("the only property right which was acquired by [licensee] in the use of the ether as a medium of communication was such as was granted to it by the terms of its license, and was subject to the conditions contained therein . . .") (emphasis added).

³⁰ See Petition at 14-18, discussing the origins of these sections of the Communications Act in the Radio Act of 1927. Under the Radio Act, licensees had claimed vested rights to certain frequencies, citing Tribune Co. v. Oak Leaves Broadcasting Station (Cook Co., Ill. Cir. Ct. 1926). Congressional debate regarding Sections 301, 304, and 309(h) of the Communications Act indicates that Congress was trying to clarify that these claims should not be recognized.

³¹ 57 R.R.2d 855.

nority group members. Implicit in this suggestion, of course, is that the Communications Act does not prohibit security interests.

4.2. Supreme Court Precedent Does Not Prohibit Security Interests in Licenses or in the Intangible Operating Value of Licenses As Part of Going Concerns

The Petition correctly states that the United States Supreme Court decisions relied upon by the Commission in making general statements against allowing security interests relative to licenses do not in fact require such a result.³² Both Sanders Bros. and Ashbacker emphasize only, in interpreting the Communications Act, that a licensee does not obtain an ownership interest in the radio spectrum. Neither case determined whether a licensee's going-concern value or the Intangible Operating Value of its license is cognizable as valuable to creditors.

³² Petition at 18-19, citing Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1940) ("Ashbacker"); FCC v. Sanders Bros. Radio Station, 309 U.S. 470 (1940) ("Sanders Bros.")

4.3. FCC Precedent Does Not Preclude the Types of Interests Proposed Herein

The Commission's policy on security interests in licenses evolved, sometimes rather casually through Commission staff decisions,³³ from the principle that property rights do not attach to frequencies and only governmentally approved licensees may control licenses to use these frequencies. This evolution involved many generalizations that were taken out of context and assumed to be the law, resulting in the current confusion among courts, licensees, and lenders.

Upon close inspection, the leading FCC cases in this area,³⁴ and those cited by courts in the past for the proposition that the FCC prohibits all security in-

³³ See, e.g., Omega Cellular Partners, 5 FCC Rcd. 7624 (Mob. Serv. Div. 1990) (The Chief of the Mobile Services Division, applying In re Kirk Merkley, 94 F.C.C.2d 829 (1983) ("Merkley"), recon., 56 R.R.2d 413 (1984) and Minority Ownership, voided the security interest which a license applicant wanted to grant in its potential license to its financial backer).

³⁴ See, e.g., Merkley 94 F.C.C.2d 829, recon. 56 R.R.2d 413; In re Radio KDAN, 11 F.C.C.2d 934, recon. denied, 12 F.C.C.2d 1026, aff'd on other grounds sub. nom. Hansen v. FCC, 413 F.2d 374 (D.C. Cir. 1969); Minority Ownership, 57 R.R.2d 855.

terests in licenses,³⁵ do not have such categorical effect.

While the FCC in Merkley made general state-

³⁵ See, e.g., Stephens 789 F.2d 386; Smith, 94 B.R. 220. For purposes of determining the rights between private parties, the courts need not defer to FCC precedent. The Supreme Court set the tone for the jurisdictional split between the FCC and the judiciary in Radio Station WOW v. Johnson, 326 U.S. 120 (1945). There the Court found that a state court can direct a reconveyance of a station (with its license) to the original transferor upon a finding of fraud, even if the FCC, upon consideration of the application for reconveyance, refused to approve the transfer and the end result is termination of the station. See also Regents of the University System of Georgia v. Carroll, 338 U.S. 586 (1950). Ever since, the FCC has acknowledged and followed the rule whereby contractual issues are determined by state law while the FCC exercises its authority through its right to prior approval of any assignment or transfer of control of a license. See Merkley, 94 F.C.C.2d 829, 839; In re Arecibo Radio Corp., 101 F.C.C.2d 545, 550 (1985). Thus, the FCC should clarify that a court has the authority to find that a security interest exists in a license for purposes of determining the rights of the parties before it.

However, the courts in Stephens and Smith apparently relied on dicta in FCC cases to find that security interests in FCC licenses are not permissible. The court in Oklahoma City, 112 B.R. 425, went even further and arguably found that even a licensee's going-concern value could not be included in determining the size of a creditor's secured interest when the licensee was in fact a going concern. See nn.3, 8, 9, 12 and text above for further discussion of Oklahoma City. Clarification of the FCC position would reduce the confusion of the courts on these issues.

ments against allowing security interests in licenses, the creditor in Merkley was trying to exercise the right of a former licensee to void an FCC-approved transfer of the license from the debtor to a qualified third party.³⁶ This situation is distinguishable from that espoused herein and in the Petition involving a limited security interest that does not carry any right of automatic foreclosure whereby the third-party creditor would be able to seize the license and operate the facilities itself or control the transfer of the license and the licensed facilities without FCC review of the buyer. Under a limited security interest as proposed herein and by the Petition, upon default of the debtor, the creditor must still seek FCC approval of any transfer of the license either immediately to a trustee or receiver or ultimately to a long-term service provider.

³⁶ Note that, in Merkley, 94 F.C.C.2d 829, 832, recon. 56 R.R.2d 413, 414, Commission staff had suggested to the creditor that a right to a "bona fide public sale" upon default would be permissible. However, because the transfer to a third party had been completed, operation of the station likely would have been delayed if the Commission voided the transfer. Such delay would not have been in the public interest. If the creditor had acted sooner (i.e., before the transfer had been completed), there would have been no public-interest reason to deny the bona fide public sale.

A security interest in the going-concern value of the licensee including the Intangible Operating Value of the license is even further removed from affecting the transfer of the license. The creditor would seek only to establish priority as to the amount of the security interest in the proceeds of any transfer pursuant to the bankruptcy court's order or as agreed upon in a non-judicial restructuring. The secured creditor would not necessarily be taking the initiative to force a public auction or private sale.

4.4. Allowing Security Interests in FCC Licenses
Would Not Differ in Kind from the Protection
That the FCC Already Provides to Creditors

4.4.1. The FCC Policies Regarding Creditors
Support the Request Herein

The FCC has established a policy of protecting innocent creditors.³⁷ For example, the FCC already allows creditors to take stock pledges in licensees,³⁸ and the FCC routinely approves transfers of licenses in bank-

³⁷ See, e.g., In re Second Thursday Corp., 19 R.R.2d 1199 (1970). See also LaRose v. FCC, 494 F.2d 1145 (D.C. Cir. 1974).

³⁸ See Minority Ownership, 57 R.R.2d 855, 858 (requiring the debtor to pledge non-voting stock for security is an example of an arrangement that provides "additional financial security for lenders, without jeopardizing the independence of the licensee").

ruptcy to trustees or receivers on an expedited basis.³⁹ A limited security interest that does not compromise the Commission's transfer approval authority would not hypothecate the independence of the licensee any more than permissible stock pledges do.⁴⁰ Moreover, transfers to receivers or trustees may involve transfer to a party recommended by lenders. Thus, the FCC does not find lender influence in selecting a party who will seek FCC approval to hold a license to be impermissible.

The exercise of a limited security interest that does not abrogate the FCC's transfer approval process, or the recognition that a secured creditor is entitled to priority in the proceeds of the sale of a licensee including proceeds derived from the Intangible Operating Value of its license, does not require any procedures for disposition of the licensee's assets that are not consistent with current FCC-approved procedures. The FCC regularly approves both public and private sales of li-

³⁹ See, e.g., D. H. Overmeyer Telecasting, 53 R.R.2d 1701, 1705 (1983) (Involuntary transfers of licenses resulting from bankruptcy do not require the usual 30-day waiting period for FCC approval because the trustee will only be "operating the facility on a temporary basis"); Merkley, 94 F.C.C.2d 829, recon., 56 R.R.2d 413.

⁴⁰ See Petition at 22.

censee operations, whether voluntary or involuntary, recognizing that a bankruptcy auction where the highest bidder is the prospective transferee that the FCC reviews for qualifications is entirely consistent with FCC policy.⁴¹

Clarifying the permissibility of a limited security interest in FCC licenses or in the going-concern value of the licensee including the Intangible Operating Value of such licenses that does not compromise the FCC's transfer approval process thus fully complies with established FCC treatment of creditors. Such clarification reduces the present increased risk faced by lenders due to Oklahoma City by specifically allowing lenders to rely on the value inherent in a right to use spectrum, even though the right is subject to complete FCC approval of the holder. This reliance by a secured lender does not affect the borrower-licensee's independent control of the

⁴¹ Section 21.38(d) of the Commission's Rules specifically provides for involuntary transfers of licenses when a licensee is voluntarily or involuntarily placed in bankruptcy or receivership. See also n.39; KOZN FM Stereo 99 Ltd., 6 FCC Rcd. 257 (1991) (The Commission approved the transfer of the licensed station to the third highest bidder at bankruptcy auction when the previously approved sale to the first highest bidder was not consummated. The second highest bidder was no longer interested in the station.)

license, however, because the secured lender cannot seize the license or transfer it to another party without prior FCC approval.

4.4.2. The FCC Recognizes That FCC Licenses
Are Valuable as Between Private Parties

The FCC recognizes the reality that a license is of value to a broadcast station, cellular system, paging system, etc., even where physical facilities do not yet exist, because without a license the physical assets of the licensee cannot operate to generate income. In fact, in In re Welch,⁴² the FCC specifically permitted the sale of a cellular construction permit for profit.⁴³ As discussed above, lenders have long depended on and the Commission has implicitly recognized this reliance on, among other things, a licensee's value as a going concern in deciding whether to provide financing. Likewise, buyers of licensed facilities consider the status of the license in agreeing to a purchase price. Thus, the sale price of a station that is a going concern is generally significantly higher than the value of the individual

⁴² 65 R.R.2d 755 (1988).

⁴³ See also n.13 above.

assets of a non-operating station,⁴⁴ and the value of a station in danger of losing its license is less than that of a station not at such risk.⁴⁵

A limited security interest in an FCC license or in the Intangible Operating Value of a license as part of a going concern is thus entirely consistent with FCC policy, and any confusion as to the lawfulness of such interests should be dispelled as expeditiously as possible to prevent negative effects upon both the communications industry's market for funds and the public interest.

⁴⁴ See, e.g., Cleveland Board of Education, 87 F.C.C.2d 9, 14 (1981) (The amount of the transaction "allegedly exceed[ed] the value of the station's personal property," and the sale was challenged on the grounds that the parties "actually exchanged money for the license itself." The FCC did not set aside the sale. It stated, "[W]e believe that any question relating to the procedure by which the auction was accomplished is a private matter subject to local law, inappropriate for Commission review."); WFIL Broadcasting Co. and Triangle Publications, Inc., 43 F.C.C.2d 1 (1973) (The Commission approved the transfer of a licensed station for \$1.9 million although the book value of its broadcast facilities was \$148,000.).

⁴⁵ See, e.g., Lee Broadcasting Corp., 76 F.C.C.2d 462 (1980); Northland Television, Inc., 72 F.C.C.2d 51 (1979). The FCC's distress sale policy reflects this assumption.

4.5. Allowing a Security Interest in an FCC License or Clarifying That Creditors May Retain an Interest in the Intangible Operating Value of the License Is in the Public Interest and Would Not Compromise the FCC's Authority to Approve Any Assignment or Transfer of Control of the License

Neither a limited security interest in an FCC license nor an interest in the Intangible Operating Value of a license as part of a going concern would detract in any way from the Commission's authority to approve any assignment or transfer of control of an FCC license. A lender's right to proceed against the license would always be subject to the FCC's right to review and approve any proposed buyer/transferee.

Specifically clarifying that bankruptcy courts are not precluded from recognizing a creditor's interest in the going-concern value of the licensee including the Intangible Operating Value of a license (and not a security interest in the license itself) presents an even less intrusive right as to the license in the sense that the creditor would merely be establishing a priority right to share in the entire proceeds of any FCC-approved sale of the licensee's operations. The Intangible Operating Value of licenses as a part of going concerns has long been a factor in lending decisions which has been relied on by secured lenders and recognized implicitly by

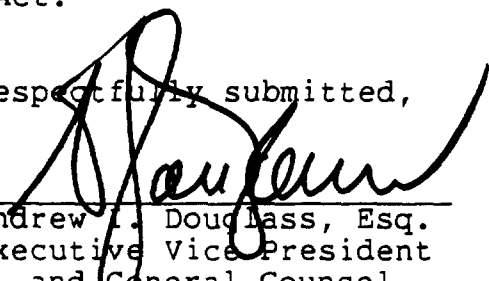
the Commission. Such reliance clearly does not infringe on the FCC's authority or the public interest.

5. CONCLUSION

For the reasons stated above, Heller urges the Commission to clarify that, at least for purposes of dealing with licensees in default, a lender that has bargained for and obtained seniority in relation to other creditors can assert a limited security interest in (1) the license as the means to obtain a security interest in the going-concern value of the licensee, or (2) in the entire value of the licensee as a going concern, including the Intangible Operating Value of the license. This ensures that senior debt can be secured by, and satisfied from, the entire market value of the licensee. In the alternative, Heller asks that the FCC at least clarify that federal communications law and policy would not preclude a court from finding that such security interests may exist for contract or bankruptcy purposes.

In no case would such a limited security interest compromise the FCC's transfer approval process or otherwise offend the Communications Act.

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